

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

VINCENT DE GIOVANNI,)
MARIETTE BARROS, DIAMANTINO)
FERNANDES, MARIA PINTO, MANUEL)
FERNANDES, MARIA MONTEIRO,)
and all others similarly situated,)
Plaintiffs,)
v.) Case No. 07-10066 MLW
JANI-KING INTERNATIONAL, INC.,)
JANI-KING, INC. and)
JANI-KING OF BOSTON, INC.,)
Defendants.)

)

REPORT TO COURT ON MEDIATION

Pursuant to the Court's August 1, 2012 Order (Dkt. No. 214), Defendants hereby advise the Court that the Parties participated in a mediation session with Judge Isaac Borenstein in Boston on September 24, 2012, but were unable to resolve this case.

Defendants disagree with the assertion in Plaintiffs' status report that the calculation of damages in this case will require only "ministerial" effort. (Dkt. No. 222.) As set forth in the Parties' July 20, 2012 Joint Statement (Dkt. No. 211), Defendants will need to conduct both individualized and expert discovery related to the damages that Plaintiffs seek to recover. Defendants believe that this discovery will take approximately six months to complete.

Defendants' Motion for Reconsideration, which is related to the Court's summary judgment order against the two parent company Defendants, Jani-King, Inc. and Jani-King International, Inc., is pending. Additionally, Defendants anticipate that the Parties will engage in

motion practice with respect to the proper scope of outstanding discovery, issues related to the availability of specific damages, and amending the scope of the class to exclude current class members who have hired their own employees.

In light of the significant number of remaining issues, Defendants request that the Court set a scheduling conference to address the points discussed above and any other outstanding issues outlined in the Parties' July 20, 2012 Joint Statement.

Respectfully submitted,

JANI-KING INTERNATIONAL, INC., JANI-KING, INC. and JANI-KING OF BOSTON, INC.,

By their attorneys,

/s/ Eileen M. Hunter

Kerry L. Bundy (Pro hac vice)
Aaron D. Van Oort (Pro hac vice)
Eileen M. Hunter (Pro hac vice)
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
(612) 766-7000
(612) 766-1600 (facsimile)

Arthur L. Pressman (BBO #643094)
Gregg A. Rubenstein (BBO #639680)
NIXON PEABODY LLP
100 Summer Street
Boston, Massachusetts 02110
(617) 345-1000
(617) 345-1300 (facsimile)

DATED: October 5, 2012

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2012, a copy of this document was served by electronic filing on all counsel of record.

/s/ Eileen M. Hunter _____

fb.us.9245817.03